

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

TREA SENIOR CITIZENS LEAGUE
909 N. Washington Street, Suite 300
Alexandria, Virginia 22314,

Plaintiff,

v.

SOCIAL SECURITY ADMINISTRATION
6401 Security Boulevard
Baltimore, Maryland 21235,

Defendant.

Civil Action No. _____

EXHIBITS TO COMPLAINT

WILLIAM J. OLSON, P.C.

ATTORNEYS AT LAW

8180 GREENSBORO DRIVE, SUITE 1070
MCLEAN, VIRGINIA 22102-3880

TELEPHONE (703) 356-5070

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600 PENNSYLVANIA AVE., S.E.
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WASHINGTON, D.C. 20003-4303
TELEPHONE (202) 547-9080

WILLIAM J. OLSON
D.C., VA.

JOHN S. MILES
D.C., MD., VA., OF COUNSEL

HERBERT W. TITUS
VA., OF COUNSEL

August 4, 2003

Social Security Administration
Office of Public Disclosure
3-A-6 Operations Building
6401 Security Boulevard
Baltimore, MD 21235

Re: FREEDOM OF INFORMATION ACT (FOIA) REQUEST
of TREA Senior Citizens League

Dear Sir or Madame:

We represent, and submit this Freedom of Information Act request on behalf of, TREA Senior Citizens League ("TSCL"), a nonprofit corporation exempt from federal taxation under Section 501(c)(4) of the Internal Revenue Code, with its principal office at 909 N. Washington St., Suite 300, Alexandria, VA 22314. TSCL, with more than 1.3 million members, educates its constituents and the public on matters of national legislation that are relevant to the senior citizens of America, including efforts to influence the passage of national legislation favorable to senior citizens. TSCL and its senior citizen members are concerned, for example, about the protection of Social Security, Medicare and veteran or military retiree benefits, and TSCL works to educate the public regarding the relevant issues and ways of accomplishing such protection.

Document Request

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. section 551, *et seq.*, and the Department of State's implementing regulations, 20 C.F.R. § 402.5, *et seq.*, we hereby request copies of the documents itemized below relating to any agreement, or proposed agreement, between the United States and Mexico which would provide, in any manner whatsoever, for the payment of U.S. Social Security benefits to Mexican nationals. Such agreement or proposed agreement is referred to herein as "Social Security Totalization agreement." The specific documents requested are as follows:

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U.S. DISTRICT COURT

(1) all proposed or draft versions of any Social Security Totalization agreement, treaty, or accord, as well as any proposed legislation relating thereto, either formerly or currently being considered or negotiated, between the United States and Mexico, pursuant to 42 U.S.C. section 433, and any such documents negotiated or considered under any other statutory, or other, authority;

(2) all budgetary, fiscal, and economic analyses of the anticipated or projected financial impact on (i) the United States, (ii) the Social Security Trust Fund, and/or (iii) American senior citizens which would result from a United States/Mexico Social Security Totalization agreement;

(3) if not already provided above, all documents estimating and/or projecting the pay-out to Mexican nationals of Social Security benefits by the United States by virtue of any Social Security Totalization agreement during the current century; .

(4) all estimates of the number of Mexican nationals who currently live legally in the United States, and the number of Mexican nationals who live illegally in the United States;

(5) all estimates of the number of Mexican nationals who could receive Social Security benefits if a United States/Mexico Social Security Totalization agreement were entered into;

(6) all estimates of the number of Mexican nationals who Permanently Reside in the United States Under Color of Law ("PRUCOL" aliens);

(7) all documents relating to the applicability of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. section 1601, *et seq.*) to granting Social Security benefits to Mexican nationals;

(8) all documents mentioning and/or analyzing either the advantages or the disadvantages, or both, to the United States or any of its citizens expected to result from a United States/Mexico Social Security Totalization agreement; and

(9) copy of the letter from Chris Chaplain and Nettie Barrick, SSA actuaries, to Stephen C. Goss, SSA's Chief Actuary, November 8, 2002, *Estimated Financial Effects of a Proposed Totalization Agreement Between the United States and Mexico on Their Respective Social Security Programs - INFORMATION.*

Please mail the documents to the following address:

William J. Olson, Esquire
William J. Olson, P.C.
8180 Greensboro Drive, Suite 1070
McLean, VA 22102-3860

Fee Waiver Request

We request that the search, review, and copying fees be waived as provided under section 5 U.S.C. § 552(a)(4)(A) and 20 C.F.R. § 402.185. TSCL is a nonprofit organization seeking the requested documents so that the economic effect on senior citizens can be assessed. The fees should be waived because release of the requested documents is in the public interest, and the requested information is likely to contribute significantly to public understanding of the operations or activities of the government. The requested documents pertain to the operations and activities of the federal government with regard to negotiations with the government of Mexico, and they are anticipated to reveal various significant considerations of the federal government relating to the issue of a totalization agreement with Mexico. These are matters of great public interest and importance to American citizens.

The release of the requested documents is not primarily for any commercial interest or purpose, including any commercial interest of TSCL. TSCL has already disseminated information about the proposed Social Security totalization agreement with Mexico to the public, including its members and others, by mail, e-mail, and through its website. TSCL intends to disseminate further any important information it obtains as a result of this request. Relevant information that TSCL anticipates is contained in the requested documents will be made available to the public through its website, without charge.

If this request is denied, we would appreciate an estimate of the costs involved in procuring any of the requested documents if the cost exceeds \$100. If the costs do not exceed \$100, however, we do not need an estimate, and we will guarantee payment.

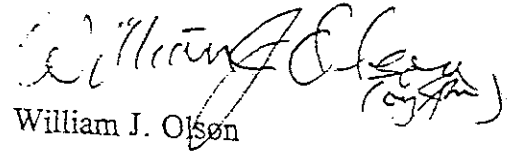
Expedition Requested

The possible Social Security Totalization agreement or treaty with Mexico is a public policy issue of great importance to all Americans, and senior citizens now covered by Social Security in particular. This treaty has received significant attention in the media. Federal legislation is now pending relating to this treaty negotiation (*e.g.*, H.R. 489). All of these factors lead us to request that the 20-day response time imposed by 20 C.F.R. § 402.140 be adhered to strictly. We look forward to hearing from you within 20 business days.

4

Thank you for your prompt attention to this request.

Sincerely yours,


William J. Olson

WJO:jlm

cc: Mr. George Smith, Chairman
TREA Senior Citizens League



SOCIAL SECURITY

Refer to:
S9H: OW6508

December 5, 2003

Mr. William J. Olson, P.C.
Attorney at Law
8180 Greensboro Drive
Suite 1070
McLean, Virginia 22102-3860

Dear Mr. Olson:

I am responding to your Freedom of Information Act (FOIA) request to the United States Social Security Administration (SSA) of August 4, 2003, on behalf of the TREA Senior Citizens League for copies of documents related to totalization activity between the United States and the government of Mexico. I apologize for the delay in responding to your request.

Specifically, you were seeking:

- (1) all proposed or draft versions of any Social Security totalization agreement, treaty, or accord, as well as any proposed, related legislation;
- (2) all budgetary, fiscal, and economic analyses of the anticipated or projected financial impact which would result from such a totalization agreement;
- (3) all documents estimating and/or projecting the payout to Mexican nationals of Social Security benefits by the United States by virtue of any such totalization agreement;
- (4) all estimates of the number of Mexican nationals who currently live legally or illegally in the United States;
- (5) all estimates of the number of Mexican nationals who could receive Social Security benefits if such an agreement were entered into;
- (6) all estimates of the number of Mexican nationals who permanently reside in the United States under color of law;
- (7) all documents relating to the applicability of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to granting Social Security benefits to Mexican nationals;
- (8) all documents mentioning and/or analyzing either the advantages or disadvantages or both, to the United States or any of its citizens, expected to result from any such totalization agreement; and
- (9) a "copy of the letter from Chris Chaplain and Nettie Barrick, SSA actuaries, to Stephen C. Goss, SSA's Chief Actuary, dated November 8, 2002, [entitled] *Estimated Financial Effects of a Proposed Totalization Agreement Between the United States and Mexico on Their Respective Social Security Programs - INFORMATION.*"

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U.S. DISTRICT COURT

Based on an extensive review, I have decided that some of the information you requested may be released. Accordingly, I am enclosing 20 documents, consisting of 133 pages, responsive to your request. In item number 9, you specifically request a copy of the November 8, 2002, letter from Mr. Chaplain to Mr. Goss. However, that letter was a draft and as a result, determined to be pre-decisional in nature. Rather, I am providing you with the most recent, final version of that same letter, dated March 10, 2003.

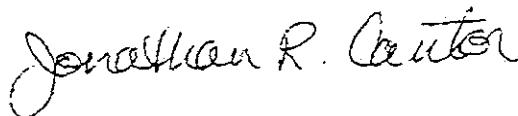
I have withheld 43 other documents that are exempt from mandatory disclosure under the FOIA (5 U.S.C. § 552(b)(5)). Exemption 5 protects the deliberative process; that is, it protects advice, opinions, recommendations, pre-decisional discussion, and evaluative remarks that are part of the government decision making process. Release of such pre-decisional advisory documents would harm the quality of agency decision-making and the policy of encouraging frank, open discussion among agency personnel.

The most commonly invoked privilege within Exemption 5 is the deliberative process privilege. The general purpose of this privilege is to prevent injury to the quality of agency decisions and protect the decision making processes of government agencies. The purpose of the deliberative process privilege is to allow agencies freely to explore alternative avenues of action and to engage in internal debates without fear of public scrutiny. (Missouri ex rel. Shorr v. United States Army Corps of Engineers, 147 F.3d 708, 710 (8th Cir. 1998)). Exemption 5 protects not merely documents, but also the integrity of the deliberative process itself where the exposure of that process could result in harm. Documents we are withholding under this exemption include e-mails, internal handwritten drafts, etc.

I have determined that there is no fee for this service.

If you disagree with this decision, you may request a review. Mail your appeal within 30 days after you receive this letter to the Executive Director for the Office of Public Disclosure, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235. Mark the envelope "Freedom of Information Appeal."

Sincerely,



Jonathan R. Cantor
Freedom of Information Officer

Enclosures

WILLIAM J. OLSON, P.C.

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WILLIAM J. OLSON
(D.C., VA.)
JOHN S. MILES
(D.C., MD., VA., OF COUNSEL)
HERBERT W. TITUS
(VA., OF COUNSEL)

May 6, 2005

Office of Public Disclosure
Social Security Administration
3-A-6 Operations Building
6401 Security Boulevard
Baltimore, MD 21235

Re: FREEDOM OF INFORMATION ACT (FOIA) REQUEST
of TREA Senior Citizens League

Dear Sir or Madame:

We represent, and submit this Freedom of Information Act request on behalf of, TREA Senior Citizens League ("TSCL"). TSCL is a nonprofit corporation exempt from federal taxation under Section 501(c)(4) of the Internal Revenue Code, with its principal office at 909 N. Washington St., Suite 300, Alexandria, VA 22314. TSCL, with more than 1.3 million members, educates its supporters and the public on matters relating to senior citizens of America, including efforts to influence the passage of national legislation favorable to senior citizens. TSCL and its senior citizen members are concerned, for example, about the protection of Social Security, Medicare, and veteran or military retiree benefits, and TSCL works to educate the public regarding the relevant issues and ways of accomplishing such protection.

On August 4, 2003, we requested, on behalf of TSCL, copies of documents pertaining to totalization activity between the United States and the government of Mexico. On December 9, 2003, we received a response from your office enclosing 20 documents (but withholding 43 other documents which your office determined to be exempt from disclosure). Since then, a Social Security totalization agreement has been completed between the United States and Mexico. Therefore, we renew our request, as follows.

Document Request

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. section 551, *et seq.*, and the Social Security Administration's implementing regulations, 20 C.F.R. § 402.5, *et seq.*, we

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JUN 29 2006

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U.S. DISTRICT COURT

hereby request copies of the documents itemized below relating to the agreement between the United States and Mexico which would provide, in some manner, for the payment of U.S. Social Security benefits to Mexican nationals. Such agreement or proposed agreement is referred to herein as "Social Security Totalization agreement." The specific documents requested are as follows:

- (1) the final version of the Social Security Totalization Agreement with the government of Mexico;
- (2) all proposed or draft versions of any Social Security Totalization agreement, treaty, or accord, as well as any proposed legislation relating thereto, either formerly or currently being considered or negotiated, between the United States and Mexico, pursuant to 42 U.S.C. section 433, and any such documents negotiated or considered under any other statutory, or other, authority;
- (3) all budgetary, fiscal, and economic analyses of the anticipated or projected financial impact on (i) the United States, (ii) the Social Security Trust Fund, and/or (iii) American senior citizens which would result from a United States/Mexico Social Security Totalization agreement;
- (4) if not already provided above, all documents estimating and/or projecting the pay-out to Mexican nationals of Social Security benefits by the United States by virtue of any Social Security Totalization agreement during the current century;
- (5) all estimates of the number of Mexican nationals who currently live legally in the United States, and of the number of Mexican nationals who live illegally in the United States;
- (6) all estimates of the number of Mexican nationals who could receive Social Security benefits if the United States/Mexico Social Security Totalization agreement were approved by Congress;
- (7) all estimates of the number of Mexican nationals who Permanently Reside in the United States Under Color of Law ("PRUCOL" aliens);
- (8) all documents relating to the applicability of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. section 1601, *et seq.*) to granting Social Security benefits to Mexican nationals;
- (9) all documents mentioning and/or analyzing either the advantages or the disadvantages, or both, to the United States or any of its citizens expected to

result from the United States/Mexico Social Security Totalization agreement;
and

(10) all documents relating to the preparation of the estimates to be submitted to Congress as required by 42 U.S.C. section 433(e)(1).

We request the above documents for the time period of January 1, 2003 until the date of this request.

Please mail the documents to the following address:

William J. Olson, Esquire
William J. Olson, P.C.
8180 Greensboro Drive, Suite 1070
McLean, VA 22102-3860

Fee Waiver Request

In response to our previous Freedom of Information Act request, your office waived the fees relating to its response thereto.

We request that the search, review, and copying fees be waived as provided under section 5 U.S.C. § 552(a)(4)(A) and 20 C.F.R. § 402.185. TSCL is a nonprofit organization seeking the requested documents so that the economic effect on senior citizens can be assessed. The fees should be waived because release of the requested documents is in the public interest, and the requested information is likely to contribute significantly to public understanding of the operations or activities of the government. The requested documents pertain to the operations and activities of the federal government with regard to negotiations with the government of Mexico, and they are anticipated to reveal various significant considerations of the federal government relating to the issue of a totalization agreement with Mexico. These are matters of great public interest and importance to American citizens.

The release of the requested documents is not primarily for any commercial interest or purpose, including any commercial interest of TSCL. TSCL has already disseminated information about the proposed Social Security totalization agreement with Mexico to the public, including its members and others, by mail, e-mail, and through its website. TSCL intends to disseminate further any important information it obtains as a result of this request. Relevant information that TSCL anticipates is contained in the requested documents will be made available to the public through its website, without charge.

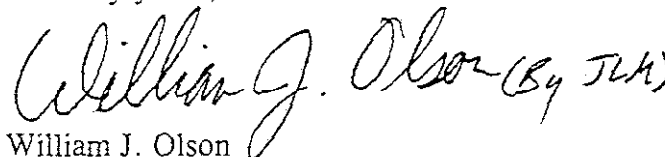
If this waiver request is denied, we would appreciate an estimate of the costs involved in procuring any of the requested documents if the cost exceeds \$100. If the costs do not exceed \$100, however, we do not need an estimate, and we will guarantee payment.

Expedition Requested

The Social Security Totalization agreement with Mexico is a public policy issue of great importance to all Americans, and senior citizens now covered by Social Security in particular. This treaty has received significant attention in the media. Federal legislation is now pending relating to this treaty negotiation (*e.g.*, H. Con. Res. 50, H. Res. 20, and H.R. 858). All of these factors lead us to request that the 20-day response time imposed by 20 C.F.R. § 402.140 be adhered to strictly. We look forward to hearing from you within 20 business days.

Thank you for your prompt attention to this request.

Sincerely yours,

 (By JLM)

William J. Olson

WJO:jlmm

cc: TREA Senior Citizens League



SOCIAL SECURITY

Refer to:
S9H: PG1697

May 16, 2005

William J. Olson, P.C.
Attorneys at Law
8180 Greensboro Drive, Suite 1070
McLean, VA 22102-3860

Dear Mr. Olson:

We have received your Freedom of Information Act request dated May 9, 2005, requesting copies of the Social Security Totalization agreement between the United States and Mexico.

We are processing your request and will respond as soon as we can. If you would like to check on the status of your request, you may call our voice messaging system at 410-965-1727, or you may email us at FOIA.PA.Officers@SSA.gov. Please refer to case number PG1697. Someone will return your call as soon as possible.

Sincerely,

Jonathan R. Cantor

Jonathan R. Cantor
Freedom of Information Officer

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DANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT



SOCIAL SECURITY

Refer to:
S9H: PG1697

June 14, 2005

William J. Olson, P.C.
8180 Greensboro Dr., Ste., 1070
McLean, VA 22102-3860

Dear Mr. Olson:

I am writing to you about your Freedom of Information Act (FOIA) request dated May 6, 2005, concerning the final version of the Social Security Totalization Agreement with the government of Mexico. Your request is very important to us. We are working diligently to process it, but because the Social Security Administration receives an extremely high number of FOIA requests, there are times when we cannot respond in twenty days.

We do need additional time to prepare our response and we will respond to you as soon as we can. If at any time you would like to check on the status of your request, you may call our voice messaging system at 410-965-1727; or you may email us at FOIA.PA.Officers@SSA.gov. Please refer to case number PG1697. Someone will return your call as soon as possible.

We assure you that we are making every effort to respond fully to your request. Please contact us if you think that you might clarify your request in a way that may facilitate a speedier response.

Sincerely,

Jonathan R. Cantor

Jonathan R. Cantor
Freedom of Information Officer

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JUN 29 2006

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

WILLIAM J. OLSON, P.C.

ATTORNEYS AT LAW

8180 GREENSBORO DRIVE, SUITE 1070
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WILLIAM J. OLSON
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JOHN S. MILES
D.C., MD., VA., OF COUNSEL

HERBERT W. TITUS
VA., OF COUNSEL

600 PENNSYLVANIA AVE., S.E.
SUITE 410
WASHINGTON, D.C. 20003-4303
TELEPHONE (202) 547-9080

August 19, 2005

Office of Public Disclosure
Social Security Administration
3-A-6 Operations Building
6401 Security Boulevard
Baltimore, MD 21235

Re: FREEDOM OF INFORMATION ACT (FOIA) REQUEST
of TREA Senior Citizens League: Case Number PG1697

Dear Sirs:

We represent TREA Senior Citizens League ("TSCL"), a nonprofit corporation exempt from federal taxation under Section 501(c)(4) of the Internal Revenue Code, with its principal office at 909 N. Washington St., Suite 300, Alexandria, VA 22314.

On May 6, 2005, on TSCL's behalf, we submitted a FOIA request to the Social Security Administration, requesting records relating to a proposed Social Security Totalization Agreement with Mexico. We received a letter from the Social Security Administration dated May 16, 2005 confirming receipt of our request (copy attached).

As of today, we have received no additional information regarding the request, nor have we received any request for an extension of the response time. Such a response is long overdue. (See 20 C.F.R. § 402.140.) To date, it has been approximately 100 days since our request was made, and approximately 90 days since confirmation that your office received our request. We understand that such requests ordinarily are required to be processed within 20 days.

The need for the requested documents is urgent, as a U.S.-Mexico Totalization Agreement may be presented to Congress at any time. As you know, upon receipt of such an Agreement, Congress has only 60 legislative days to act before the Agreement goes into effect.

TSCL has a compelling need to obtain the documents in order to review and analyze them and to prepare its analysis for Congress' consideration.

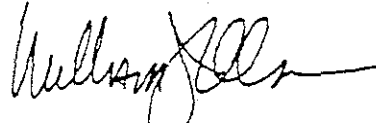
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U.S. DISTRICT COURT

Most importantly, among the documents requested is a copy of the Social Security Totalization Agreement between the governments of the United States and Mexico, signed by Social Security Commissioner Barnhart and Dr. Santiago Levy Algazi, Director General of the Mexican Social Security Institute, on June 29, 2004, in Guadalajara, Mexico. Even if other requested documents will take additional time to obtain, please provide this one document without further delay.

If your office is unable to provide a duplicate of the complete document now, please provide us with a detailed explanation of why this document is being withheld.

Please respond immediately to our request for records. Additionally, please contact our office by phone in order to update us on the status of this request.

Sincerely yours,

A handwritten signature in dark ink, appearing to read 'William J. Olson', with a long horizontal flourish extending to the right.

William J. Olson

WJO:jl
Enclosure

cc: Mr. George Smith, Chairman
TREA Senior Citizens League

WILLIAM J. OLSON, P.C.

ATTORNEYS AT LAW

8180 GREENSBORO DRIVE, SUITE 1070
MCLEAN, VIRGINIA 22102-3860

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WILLIAM J. OLSON
(D.C., VA.)

JOHN S. MILES
(D.C., MD., VA., OF COUNSEL)

HERBERT W. TITUS
(VA., OF COUNSEL)

JEREMIAH L. MORGAN
(CA. ONLY)

600 PENNSYLVANIA AVE., S.E.
SUITE 410
WASHINGTON, D.C. 20003-4303
TELEPHONE (202) 547-9080

January 19, 2006

Certified Mail

Commissioner of Social Security
Social Security Administration
6401 Security Boulevard
Baltimore, MD 21235

Re: Appeal of Denial of TSCL's FOIA Request of May 6, 2005 (Case Number PG1697)

Dear Sirs:

We represent TREA Senior Citizens League ("TSCL"), a nonprofit corporation exempt from federal taxation under Section 501(c)(4) of the Internal Revenue Code, with its principal office at 909 N. Washington St., Suite 300, Alexandria, VA 22314.

This is an appeal of the denial of our May 6, 2005 request to the Social Security Administration under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552.

On May 6, 2005, on TSCL's behalf, we submitted a FOIA request to the Social Security Administration, requesting records relating to a proposed Social Security Totalization Agreement with Mexico (copy enclosed). We received a letter from the Social Security Administration dated May 16, 2005 confirming receipt of our request (copy enclosed). However, since confirmation that the SSA has received our letter, we have received no further communication. On August 19, 2005, 103 days after our original request and 93 days since receipt of our request, we sent a follow-up letter to the SSA requesting an update on the status of our request (copy enclosed). To date, we have received no response.

As of today, we have received no substantive response to TSCL's FOIA request, nor have we received any request for an extension of the response time. Such a response is long overdue. See 20 C.F.R. § 402.140. To date, it has been over eight months since the FOIA request was made. We understand that such requests ordinarily are required to be processed within 20 days. Even according to SSA's website policy of 120 days, it would appear that our request should have been fulfilled long ago.

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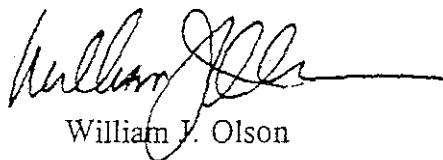
DEBORA MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

This lack of communication and utter disregard of our FOIA request by the Social Security Administration appear to be in clear violation of the FOIA and your agency's regulations. We hereby appeal the decision made by the SSA effectively denying our FOIA request by failing to respond to it.

We would respectfully urge you to grant our appeal and order the release of the documents we have requested, including the U.S./Mexico Totalization Agreement as executed by the parties, and we would ask you to do so at the earliest possible date.

Please do not hesitate to contact the undersigned, or John Miles of this office, by telephone, if it would assist in the proper resolution of this matter.

Sincerely yours,

A handwritten signature in dark ink, appearing to read 'William J. Olson', with a long horizontal flourish extending to the right.

William J. Olson

WJO:rjo

Enclosures

cc: TREA Senior Citizens League

2-6-06

SOCIAL SECURITY

Refer to:
S9H: PG1697

FEB 01 2006

Mr. William J. Olson, P.C.
Attorney at Law
8180 Greensboro Drive, Suite 1070
McLean, Virginia 22102-3860

Dear Mr. Olson:

I am responding to your Freedom of Information Act (FOIA) request to the United States Social Security Administration of May 6, 2005, and your follow up request of August 19, 2005, on behalf of the TREA Senior Citizens League for copies of documents related to totalization between the United States and the government of Mexico. I apologize for the delay in responding to your requests.

Specifically, you were seeking:

- (1) The final version of the Social Security Totalization agreement with the government of Mexico;
- (2) All proposed or draft versions of any Social Security Totalization agreement, treaty, or accord, as well as any proposed legislation relating thereto, either formerly or currently being considered or negotiated, between the United States and Mexico, pursuant to 42 U.S.C. section 443, and any such documents negotiated or considered under any other statutory, or other, authority;
- (3) All budgetary, fiscal, and economic analyses of the anticipated or projected financial impact on (i) the United States, (ii) the Social Security Trust Fund, and/or (iii) American senior citizens which would result from a United States/Mexico Social Security Totalization agreement;
- (4) If not already provided above, all documents estimating and/or projecting the pay-out to Mexican nationals of Social Security benefits by the United States by virtue of any Social Security Totalization agreement during the current century;
- (5) All estimates of the number of Mexican nationals who currently live legally in the United States, and the number of Mexican nationals who currently live illegally in the United States;
- (6) All estimates of the number of Mexican nationals who could receive Social Security benefits if the United States/Mexico Social Security Totalization agreement were approved by Congress;
- (7) All estimates of the number of Mexican nationals who Permanently Reside in the United States Under Color of Law ("PRUCOL" aliens);
- (8) All documents relating to the applicability of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to granting Social Security benefits to Mexican nationals;

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JUN 29 2006

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

- (9) All documents mentioning and/or analyzing either the advantages or disadvantages or both, to the United States or any of its citizens expected to result from any such totalization agreement; and
- (10) All documents relating to the preparation of the estimates to be submitted to Congress as required by 42 U.S.C. section 433(e)(1).

Based upon an extensive review, I have decided that some of the information you requested may be released. Accordingly, I am enclosing 10 documents responsive to your request. Six of these documents were previously provided to you in response to your August 4, 2003, request for background materials related to totalization between the United States and the government of Mexico.

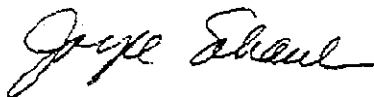
I have withheld 22 other documents that are exempt from mandatory disclosure under the FOIA (5 U.S.C. § 552(b)(5)). Exemption 5 protects the deliberative process; that is, it protects advice, opinions, recommendations, pre-decisional discussion, and evaluative remarks that are part of the government decision making process. Release of such pre-decisional advisory documents would harm the quality of agency decision-making and the policy of encouraging frank, open discussion among agency personnel.

The most commonly invoked privilege within Exemption 5 is the deliberative process privilege. The general purpose of this privilege is to prevent injury to the quality of agency decisions and protect the decision making processes of government agencies. The purpose of the deliberative process privilege is to allow agencies freely to explore alternative avenues of action and to engage in internal debates without fear of public scrutiny. (Missouri ex rel. Shorr v. United States Army Corps of Engineers, 147 F.3d 708, 710 (8th Cir. 1998)). Exemption 5 protects not merely documents, but also the integrity of the deliberative process itself where the exposure of that process could result in harm. Documents we are withholding under this exemption include e-mails, handwritten notes and discussions, and internal drafts.

I have determined that there is no fee for this service.

If you disagree with this decision, you may request a review. Mail your appeal within 30 days after you receive this letter to the Executive Director for the Office of Public Disclosure, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235. Mark the envelope "Freedom of Information Appeal."

Sincerely,



Joyce Schaul
Freedom of Information Officer

Enclosures

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March 7, 2006

FedEx

Executive Director
Office of Public Disclosure
Social Security Administration
6401 Security Boulevard
Baltimore, MD 21235

Re: Freedom of Information Appeal
Appeal of SSA's February 1, 2006 Response to and Denial of
TSCL's FOIA Request of May 6, 2005 (Case Number PG1697)

Dear Sir:

We represent TREA Senior Citizens League ("TSCL"), a nonprofit corporation exempt from federal taxation under Section 501(c)(4) of the Internal Revenue Code, with its principal office at 909 N. Washington St., Suite 300, Alexandria, VA 22314.

This is an appeal of the February 1, 2006 letter of response to our May 6, 2005 request on behalf of TSCL to the Social Security Administration ("SSA") under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. SSA's letter of response, received by us on February 6, 2006, is hereinafter referred to as "the denial letter" (copy enclosed).

On May 6, 2005, on TSCL's behalf, we submitted a FOIA request to the SSA, requesting records relating to a proposed Social Security Totalization Agreement between the United States and Mexico (copy enclosed). We received a letter from the SSA dated May 16, 2005 confirming receipt of our request (copy enclosed). On August 19, 2005, 103 days after our original request and 93 days since acknowledged receipt of our request, we sent a follow-up letter to the SSA requesting an update on the status of our request (copy enclosed).

Having received no response, on January 19, 2006, we sent an letter to SSA appealing its effective denial of our request, by failing to respond to it for almost nine months. Only then did SSA respond to our request with the denial letter of February 1, 2006. SSA sent only a handful of documents, most of which had been given to TSCL in response to an earlier FOIA request (in 2003), and all of which were already available to the public.

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JUN 29 2006

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT


The denial letter of February 1, 2006, states that 22 documents are being withheld by SSA, but there is no indication, either in the denial letter or any other document transmitted to TSCL, as to what those withheld documents are — beyond the following language in the denial letter: "Documents we are withholding under this [deliberative process] exemption include e-mails, handwritten notes and discussions, and internal drafts." Since the withheld documents have not been adequately described, it is impossible to know that the claimed exemption would apply, and therefore we submit that it would not, and ask that the decision to withhold these documents be reversed.

For example, you can see from TSCL's request, TSCL is seeking a number of documents relative to the U.S./Mexico Totalization Agreement. Yet SSA failed to provide TSCL with any meaningful documents, including a signed copy or final version of the U.S./Mexico Totalization Agreement itself, which we have specifically and directly requested. We submit that any contention by SSA that the final version of the Totalization Agreement can be withheld under the deliberative process exemption surely is erroneous.

We hereby appeal the SSA's denial of TSCL's FOIA request. We would respectfully urge you to grant TSCL's appeal and order the release of the documents we have requested, in particular (but not limited to) the U.S./Mexico Totalization Agreement as executed by the parties. We would ask you to do so at the earliest possible date.

Please do not hesitate to contact the undersigned, or John Miles of this office, by telephone, if it would assist in the proper resolution of this matter.

Sincerely yours,



William I. Olson

WJO:rjo
Enclosures
cc: TREA Senior Citizens League

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April 26, 2006
By Federal Express

Executive Director
Office of Public Disclosure
Social Security Administration
6401 Security Boulevard
Baltimore, MD 21235

Re: **Request for Decision on Freedom of Information Appeal**
Appeal of SSA's February 1, 2006 Response to and Denial of
TSCL's FOIA Request of May 6, 2005 (Case Number PG1697)

Dear Sir:

We represent TREA Senior Citizens League ("TSCL"), a nonprofit corporation exempt from federal taxation under Section 501(c)(4) of the Internal Revenue Code, with its principal office at 909 N. Washington St., Suite 300, Alexandria, VA 22314.

ON TSCL's behalf, by letter dated and sent to you on March 7, 2006, we appealed the February 1, 2006 letter of response to our May 6, 2005 request on behalf of TSCL to the Social Security Administration ("SSA") under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. As noted, SSA's letter of response — the "denial" letter — was received by us on February 6, 2006.

To date, we have received no word from your office, and nothing in writing from you or any designee of SSA's Commissioner — including any request for an extension of time — regarding TSCL's appeal. As we understand it, the Commissioner or his designee are required to make decisions on FOIA appeals within 20 working days after receipt of the appeal. See 20 C.F.R. §402.200(b). That period has long expired.

The FOIA process was designed to permit the people access to information and documents to which they are entitled, and the regulations adopted by SSA purport to serve those same ends. To date, SSA's non-responsiveness to TSCL's appeal — like the non-responsiveness of the SSA in processing TSCL's FOIA request itself frustrates these statutory goals.

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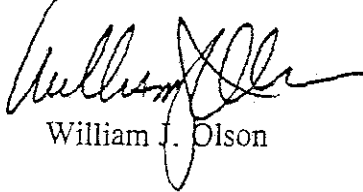
JUN 29 2006

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

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SSA's non-responsiveness appears to be in clear violation of the law. On TSCL's behalf, we request a decision on TSCL's appeal forthwith.

Sincerely yours,



William J. Olson

WJO:mm

Enclosures

cc: TREA Senior Citizens League



SOCIAL SECURITY

Refer to:
S9H: PK8942

May 5, 2006

Mr. William J. Olson, Esq.
William J. Olson, P.C.
Attorneys At Law
8180 Greensboro Drive
Suite 1070
McLean, VA 22102

Dear Mr. Olson:

I am in receipt of your correspondence dated April 26, 2006 regarding the status of your Freedom of Information Act appeal. This letter is to advise you that the Social Security Administration's (SSA) response is in the review stage. Once final clearance has been received I will provide you with a copy of SSA's response.

Sincerely,

Jonathan R. Cantor
Executive Director

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FILED

JUN 29 2006

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT